Reg. No. K. 167

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XVI] Trivandrum, Saturday, 27th February 1971 / 8th Phalguna 1892 [No. 124

GOVERNMENT OF KERALA

Vigilance (A) Department

NOTIFICATION

No. 657/A1/71/Vig. *Dated, Trivandrum, 27th February* 1971.

In exercise of the powers conferred by Section 3 of the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952) the Government of Kerala hereby make the following amendment to the Notification issued under G. O. MS. 343/69/Home dated 18th October 1969 and published in the Kerala Gazette Extraordinary No. 256 dated 18th October 1969 as subsequently amended, namely:—

AMENDMENT

In the said Notification for the sentence

"The Commission shall make its report to the Government on or before 28-2-1971" the following shall be substituted, namely:—

"The Commission shall make its report to the Government on or before 31-3-1971".

By order of the Governor,
P. M. Abraham,
Secretary to Government.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1971.

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1971

Reg. No. K. 107

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XVI] Trivandrum, Saturday, 27th February 1971 / 8th Phalguna 1892 [No. 125

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 873/LA3/71. *Dated, Trivandrum, 28th February 1971.*

The following Bill together with the Statement of Objects and Reasons, and the Financial Memorandum is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1971.

Fourth Kerala Legislative Assembly

Bill No. 27.

THE AGRICULTURAL INCOME-TAX (AMENDMENT) BILL, 1971

A

BILL

further to amend the Agricultural Income-tax Act, 1950.

Preamble.—WHEREAS it is expedient further to amend the Agricultural Income-tax Act, 1950, for the purposes hereinafter appearing;

BE it enacted in the Twenty-second Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Agricultural Income-tax (Amendment) Act, 1971.

2. *Amendment of section 16.*—In section 16 of the Agricultural Income-tax Act, 1950 (XXII of 1950) (hereinafter referred to as the Principal Act),—

(a) in sub-section (1), for the words "who is or has been a Judicial Officer", the words "who is, or has been, or is qualified to be appointed as, a Judicial Officer" shall be substituted;

(b) in sub-section (3), in clause (a), for the opening paragraph, the following paragraph shall be substituted, namely:—

"Subject to the provisions of sub-sections (3A), (3B), (3C) and (3D), the functions of the Appellate Tribunal may be performed—";

(c) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(3A) Any member who has previously dealt with any case coming up before the Appellate Tribunal in any other capacity or is personally interested in any case coming up before the Appellate Tribunal, shall be disqualified to hear that case.

(3B) Where any member of the Appellate Tribunal is disqualified under sub-section (3A) to hear any case coming up before the Tribunal and the remaining members are divided in their opinion on any point connected with that case, the Government may appoint a person qualified to be appointed as a member of the Appellate Tribunal as an additional member of the Tribunal and, thereupon that point shall be referred for decision to a Bench consisting of the members who are not disqualified and such additional member.

(3C) If two members of the Appellate Tribunal are disqualified under sub-section (3A) to hear any case coming up before the Tribunal, the Government may appoint a person qualified to be appointed as a member of the Appellate Tribunal as an additional member of the Tribunal and, thereupon, a Bench consisting of the member who is not disqualified and such additional member may dispose of that case.

(3D) Where any case is heard by a Bench referred to in sub-section (3C) and the members are divided in their opinion on any point, the Government may appoint a person qualified to be appointed as a member of the Appellate Tribunal as a second additional member of the Tribunal and, thereupon, that point shall be referred for decision to a Bench consisting of the member who is not disqualified under sub-section (3A), the additional member appointed under sub-section (3C) and the second additional member appointed under this sub-section.

(3E) An additional member appointed under sub-section (3B) or sub-section (3C) or a second additional member appointed under sub-section (3D) shall cease to hold office on the disposal of the case for which he was appointed.".

3. *Amendment of section 61.*—In section 61 of the principal Act,—

(a) in sub-section (1), after the words "an income-tax practitioner", the words "or a sales tax practitioner" shall be inserted;

(b) in sub-section (2), after clause (iv), the following clause shall be inserted, namely:—

"(v) "sales tax practitioner" means any person possessing the qualifications prescribed for a sales tax practitioner under the Kerala General Sales Tax Act, 1963 (15 of 1963).".

STATEMENT OF OBJECTS AND REASONS

By section 2 of the Kerala General Sales Tax (Amendment) Act, 969 (15 of 1969), section 4 of the Kerala General Sales Tax Act, 963, was amended so as to enable the appointment of a person who qualified to be appointed as a judicial officer not below the rank District Judge as Chairman of the Sales Tax Appellate Tribunal. e same Tribunal is now functioning as the Sales Tax Appellate ibunal and the Agricultural Income-tax Appellate Tribunal. It is erefore considered necessary to make a similar amendment to tion 16 of the Agricultural Income-tax Act, 1950, which provides the constitution of the Agricultural Income-tax Appellate Tribunal.

2. Under sub-section (3) of section 16 of the Agricultural Income- Act, 1950, the functions of the Appellate Tribunal may be per- med by a Bench consisting of all the members of the Tribunal or

by a Bench consisting of two members of the Tribunal constituted by the Chairman or when the office of a member other than the Chairman is vacant by a Bench consisting of the Chairman and the other member. Where a case is heard by two members of the Tribunal and they are divided in their opinion on any point, the point shall be referred for decision to a Bench consisting of all the members. It may happen that one or two members of the Tribunal will be interested in a case coming up before the Tribunal. It is considered that the members who are interested in a case should not be allowed to hear that case. Where only one member is interested in a case coming up before the Tribunal, there may not be any difficulty since the other members can dispose of the case. But difficulty may arise in such cases also when the remaining two members are divided in their opinion. When two members are interested in a case, the Tribunal cannot hear the case since the functions of the Tribunal cannot be performed by one member. Hence provision has to be made for the appointment of one or two additional members to meet such situations.

3. Under section 61 of the Act, an assessee entitled or required to attend before any agricultural income-tax authority in connection with any proceeding under the Act may attend either in person or by a relative or employee or lawyer or accountant or income-tax practitioner duly authorised by him in writing in that behalf. It is considered that a sales-tax practitioner duly authorised by the assessee should also be allowed to represent the assessee before any agricultural income-tax authority.

4. The Bill is intended to achieve the above objects.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the appointment of qualified persons as additional members of the Agricultural Income-tax Appellate Tribunal in certain circumstances. The additional members so appointed will have to be given a remuneration of not less than Rs. 1,000 p.m. and also travelling allowance at the rates admissible to Class I Officers. The actual financial commitment involved in the payment of remuneration and travelling allowance to such additional members cannot be worked out, as the number of cases in which additional members will have to be appointed in a year cannot be estimated. The need for appointment of additional members may arise only in a few cases every year and hence the additional expenditure which may have to be incurred will be nominal.

Government of Kerala
1971

Reg. No. K. 107

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XVI] Trivandrum, Saturday, 27th February 1971 / 8th Phalguna 1892 [No. 126

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 949/LA4/71. *Dated, Trivandrum, 27th February* 1971.

The following Bill together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1971.

Fourth Kerala Legislative Assembly

Bill No. 28.

THE KERALA PRISONERS BILL, 1971

A

BILL

to unify the law relating to prisoners confined by order of courts.

Preamble.—WHEREAS it is expedient to unify the law relating to prisoners confined by order of courts;

BE it enacted in the Twenty-second Year of the Republic of India as follows:—

1. *Short title and extent.*—(1) This Act may be called the Kerala Prisoners Act, 1971.

(2) It extends to the whole of the State of Kerala.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,—

(a) "court" includes any officer lawfully exercising civil, criminal or revenue jurisdiction;

(b) "Inspector-General" means the Inspector General of Prisons;

(c) "prison" includes an open prison and any place which has been declared by the Government, by general or special order, to be a subsidiary Jail;

(d) "State" means the State of Kerala.

(2) All references in sections 5 to 9 to "prisons" or to "imprisonment" or "confinement" shall be construed as referring also to reformatories, borstal institutions, certified Schools and other institutions of like nature or to detention therein.

3. *Officers in charge of prisons to detain persons duly committed to their custody.*—The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any court, according to the exigency of any writ, warrant or order by which such person has been committed or until such person is discharged or removed in due course of law.

2/548

4. *Officers in charge of Prisons to return writs, etc., after execution or discharge.*—The Officer in charge of a prison shall forthwith, after the execution of any writ, order or warrant under section 3, other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the court by which the same was issued or made, together with a certificate endorsed thereon and signed by him showing how the same has been executed or why the person committed thereby has been discharged from custody before the execution thereof.

5. *Power of officers in charge of prisons to give effect to sentences of courts.*—Officers in charge of prisons within the State may give effect to any sentence or order or warrant for the detention of any person passed or issued—

(a) by the High Court or by any other court or tribunal acting within the State under the general or special authority of the Government; or

(b) by any other court or tribunal in India if the reception, detention or imprisonment of persons sentenced by any such court or tribunal has been authorised by general or special order of the Government.

6. *Warrant of officer of court or tribunal to be sufficient authority.*—A warrant under the official signature of an officer of any court or tribunal referred to in section 5 shall be sufficient authority for holding any person in confinement in pursuance of the sentence passed upon him.

7. *Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution.*—(1) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution or the competency of the person whose official seat or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

(2) Pending a reference made under sub-section (1) the prisoner shall be detained in such manner, and with such restrictions or mitigations, as may be specified in the warrant or order.

8. *Removal of prisoners from one prison to another.*—(1) The Government may, by general or special order, provide for the removal of prisoners from one prison to another within the State.

(2) Subject to the orders, and under the control of the Government, the Inspector General may, by order, provide for the removal of prisoners from one prison to another within the State.

(3) Subject to the orders, and under the control of the Government or the Inspector General, the Collector of a district may, by order, provide for the removal of prisoners from one subsidiary jail to another within the district and he shall inform the Inspector General of all such transfers immediately after the transfers are ordered by him.

9. *Lunatic prisoners how to be dealt with.*—(1) Where it appears to the Government that any person detained or imprisoned under any order or sentence of any court is of unsound mind, the Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the State, there to be kept and treated, as the Government direct during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or if, on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the Government that the prisoner has become of sound mind, the Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the State, or if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The time during which a prisoner is confined in a lunatic asylum under sub-section (1) shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the court to undergo.

(4) In any case in which the Government are competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the State, the Government may order his removal to any such asylum or place within any other State in India or within any Union territory specified in the First Schedule to the Constitution of India, by agreement with the Government of such other State or the Administrator of such Union territory.

10. *Power to make Rules.*—(1) The Government may make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification [illegible]

rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

11. *Repeal.*—The Travancore-Cochin Prisoners Act, 1950 (XVII of 1950), is hereby repealed and the Prisoners Act, 1900 (Central Act 3 of 1900), shall cease to apply to the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956).

STATEMENT OF OBJECTS AND REASONS

The law relating to prisoners in the Travancore-Cochin area of the State is contained in the Travancore-Cochin Prisoners Act, 1950 (XVII of 1950), while in the Malabar area, the corresponding law in force is the Prisoners Act, 1900 (Central Act 3 of 1900). It is considered necessary to replace these laws by a single enactment applicable to the whole State.

2. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

The Bill if enacted and brought into operation, would not involve any additional expenditure from the consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Government to make rules to carry out the purposes of the Act. The matters in respect of which rules may be made would only be of a procedural and administrative nature. Further, the rules shall be subject to scrutiny of the Legislative Assembly. The rule-making power is thus of a normal character.

C. H. MOHAMMED KOYA.

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GOVERNMENT OF KERALA
1971

Reg. No. K. 107

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XVI] Trivandrum, Saturday, 27th February 1971 / 8th Phalguna 1892 [No. 128

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 951/LA3/71. *Dated, Trivandrum, 27th February* 1971.

The following Bill together with the Statement of Objects and Reasons and the Financial Memorandum is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1971.

THE MADRAS GENERAL SALES TAX (REVIVAL AND SPECIAL PROVISIONS) BILL, 1971

A

BILL

to revive the Madras General Sales Tax Act, 1939 (Madras Act IX of 1939), and to make certain special provisions for the levy of tax on the sales of tea and rubber made in the Malabar district referred to in sub-section (2) of section 5 of the State Reorganisation Act, 1956, during the period commencing on and from the 1st day of April, 1951 and ending with the 30th day of September 1957.

Preamble.—WHEREAS the Madras General Sales Tax Act, 1939 (Madras Act IX of 1939), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), was repealed by section 15 of the Travancore-Cochin General Sales Tax (Amendment) Act, 1957 (12 of 1957);

AND WHEREAS it has become necessary, in the light of the decision of the Supreme Court in Civil Appeals Nos. 1074 to 1088 of 1963, to revive the said Madras Act for the purposes of the levy, assessment, re-assessment and collection (including appeals, reviews and revisions) of tax under that Act in repect of the sales of tea and rubber made during the period commencing on and from the 1st day of April, 1951 and ending with the 30th day of September, 1957, and to make certain special provisions in respect of such levy, assessment, re-assessment and collection;

BE it enacted in the Twenty-second Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras General Sales Tax (Revival and Special Provisions) Act, 1971.

(2) It extends to the whole of the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956).

(5) Section 3 shall be deemed to have come into force on the 1st day of October, 1957 and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 1951.

2. *Interpretation.*—All expressions used but not defined in this Act and defined in the Madras General Sales Tax Act, 1939 (Madras Act IX of 1939), shall have the meanings respectively assigned to them in that Act.

3. *Revival of Madras Act IX of 1939 and rules made thereunder for certain purposes.*—The Madras General Sales Tax Act, 1939 (Madras Act IX of 1939) (hereinafter referred to as the Madras Act) and the rules made thereunder are hereby revived and shall be, and shall be deemed always to have been, in force to the extent and subject to the special provisions hereinafter contained, for the purposes necessary for, or ancillary to, the levy, assessment, re-assessment and collection (including appeals, reviews and revisions) of tax on the sales of tea and rubber made during the period commencing on and from the 1st day of April, 1951 and ending with the 30th day of September, 1957.

4. *Special provisions in respect of tax on sales of tea and rubber.*—(1) Notwithstanding anything contained in the Madras Act or in the rules made thereunder, the following provisions shall apply in respect of the tax on the sales of tea and rubber made during the period commencing on and from the 1st day of April, 1951 and ending with the 30th day of September, 1957.

(2) The tax under the Madras Act shall be levied from every dealer who is not exempt from taxation under sub-section (3) of section 3 of the Madras Act, at every point of sale, at the rate of 1.5625 per cent (one and nine-sixteenth per cent) of the amount for which tea and rubber were sold during the period commencing on and from the 1st day of April, 1951 and ending with the 31st day of March, 1957, and at two per cent thereafter:

Provided that if any tax has already been paid in pursuance of any assessment under the Madras Act and the rules made thereunder, the tax so paid shall be adjusted as provided in section 5 towards the tax payable under this Act.

Explanation.—For the removal of doubts, it is hereby declared that nothing in clause (v) of section 5 of the Madras Act before its amendment by the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956), shall apply, or shall be deemed ever to have applied, in respect of sales to which this Act applies.

(3) Every dealer in tea or rubber who is not exempt from taxation under sub-section (3) of section 3 of the Madras Act shall, within a period of ninety days from the date of publication of this Act in

the Gazette, apply to the assessing authority or any other officer who may be authorised by the Government in this behalf by notification in the Gazette, for assessment or re-assessment under the provisions of this Act with a correct and complete return of this turnover of sales of tea or rubber.

(4) In case any dealer fails to apply or file the return as provided in sub-section (3), the assessing authority or the officer authorised by the Government under that sub-section shall, after making such enquiry as it or he deems necessary and after giving the dealer an opportunity of being heard, assess the dealer to the best of it, or his judgment.

(5) Notwithstanding any provisions regarding limitation in the Madras Act or in the rules made thereunder, the tax due under this Act may be levied, assessed or re-assessed within a period of three years from the date of publication of this Act in the Gazette and recovered in the manner provided under the Madras Act and the rules made thereunder.

5. *Adjustment of tax already collected.*—(1) The amount of tax on the sale of tea or rubber made during the period commencing on and from the 1st day of April, 1951 and ending with the 30th day of September, 1957, collected from any dealer, under the Madras Act or under the General Sales Tax Act, 1125 (XI of 1125), shall be adjusted towards the tax due from him on such sale as a result of assessment or re-assessment in accordance with the provisions of this Act.

(2) If such tax collected under the Madras Act or under the General Sales Tax Act, 1125 (XI of 1125), from a dealer is less than the amount of tax due under the provisions of this Act, only the balance shall be recovered from him, and if the tax so collected is in excess, such excess shall be refunded to him.

6. *Saving.*—Nothing contained in this Act shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of publication of this Act in the Gazette, if such act or omission would not be an offence under the Madras Act but for the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

In the judgment of the Supreme Court in Kil Kotagiri Tea and Coffee Estates Co. & Others Vs the State of Kerala (Civil Appeals Nos. 1074 to 1088), which related to auction sales of tea at Fort Cochin, it was held that in a sale by auction, the property in the goods sold passed on the fall of the hammer at the auction and that therefore, in the cases before it the sale of tea had to be deemed to have taken place in Fort Cochin, which then belonged to the former

Madras State, where the auction sale was conducted, though the stock of tea was at Willingdon Island in the former State of Travancore-Cochin. The sale thus having taken place outside the State of Travancore-Cochin the collection of sales tax under the Travancore-Cochin General Sales Tax Act, 1125, was accordingly held to be violative of article 286 (1) of the Constitution. As a result of the above judgment, the State will have to refund a large amount of tax already collected. The total loss of revenue involved is Rs. 24.80 lakhs. In order to provide for the levy of tax on the sales of tea and rubber made in the former Malabar district during the period from the 1st April, 1951 to 30th September, 1957 and for the adjustment of the tax already collected, it is proposed to revive the Madras General Sales Tax Act, 1939 and to make certain special provisions for the levy of tax in such cases.

2. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

The Bill if enacted and brought into operation would not involve any expenditure from the Consolidated Fund of the State.

C. ACHUTHA MENON.

Government of Kerala
1971

Reg. No. K. 105

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XVI] Trivandrum, Saturday, 27th February 1971 / 8th Phalguna 1892 [No. 229

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 1001/L.A4/71. *Dated, Trivandrum, 27th February 1971.*

The following Bill together with the Statement of Objects and Reasons, and the Financial Memorandum is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
Secretary,
Legislative Assembly.

Printed and Published by the S. G. P. at the Government Press,
Trivandrum, 1971

THE PROHIBITION (AMENDMENT) BILL, 1971

A

BILL

further to amend the Prohibition Act, 1950.

Preamble.—WHEREAS it is expedient further to amend the Prohibition Act, 1950, for the purposes hereinafter appearing;

BE it enacted in the Twenty-second Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Prohibition (Amendment) Act, 1971.

2. *Amendment of section 1.*—In section 1 of the Prohibition Act, 1950 (XIII of 1950) (hereinafter referred to as the Principal Act), in sub-section (3), in clause (a), for the words and figures "sections 7 and 11", the word and figure "section 7" shall be substituted.

3. *Amendment of section* 2.—In section 2 of the principal Act, in sub-section (1), for the brackets, words and figures "(except sections 1, 7 and 11)", the brackets, words and figures "(except sections 1 and 7)" shall be substituted.

4. *Amendment of section 6.*—In section 6 of the principal Act, in sub-section (2), for the words and figures "sections 1, 7 and 11", in both the places where they occur, the words and figures "sections 1 and 7" shall be substituted.

5. *Omission of section 11.*—Section 11 of the principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

By notification No. 7519/G3/67/RD dated the 28th April, 1967, published as S.R.O. No. 101/67 in the Kerala Gazette Extraordinary No. 78 dated the 28th April, 1967, the operation of the provisions of the Prohibition Act, 1950, except sections 1, 7 and 11 thereof was suspended. Section 2 of the Act under which the notification was issued does not empower the Government to suspend the operation of sections 1, 7 and 11

2. Section 11 of the Act provides for punishment of persons publishing or otherwise displaying or distributing any advertisement on liquors or intoxicating drugs. With the lifting of prohibition, this section has little relevancy to the conditions existing in this State. The right for vending toddy and other liquors is given in public auction or through licences. Ban on advertisement on liquors goes against the interests of the traders in liquor and also against the policy of the Government. Therefore, section 11 is proposed to be omitted. The Bill is intended to achieve this object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

BABY JOHN.

Government of Kerala
1971

Reg. No. K. 107

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XVI] Trivandrum, Saturday, 27th February 1971 / 8th Phalguna 1892 [No. 130

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 1002/LA3/71. *Dated, Trivandrum, 27th February* 1971.

The following Bill together with the Statement of Objects and Reasons, and the Financial Memorandum is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. K. Prasannan,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1971.

Fourth Kerala Legislative Assembly

Bill No. 31.

THE KERALA STAMP (AMENDMENT) BILL, 1971

A

BILL

urther to amend the Kerala Stamp Act, 1959.

Preamble.—WHEREAS it is expedient further to amend the Kerala Stamp Act, 1959, for the purpose hereinafter appearing;

BE it enacted in the Twenty-second Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Stamp (Amendment) Act, 1971.

2. *Amendment of section 45A.*—In sub-section (3) of section 45A of the Kerala Stamp Act, 1959 (17 of 1959), for the words "six months", the words "two years" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Sub-section (3) of section 45A of the Kerala Stamp Act, 1959, lays down that the Collector may, *suo motu*, within a period of six months from the date of registration of any instrument not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of its value or consideration and the duty ayable thereon. Very often, such documents come to the notice of the Collector only long after the expiry of the said period of six months. Hence it becomes impossible for the Collector to take any action. It is therefore proposed to extend the time limit of six months to two years.

2. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

BABY JOHN.

Government of Kerala
1971

Reg. No. K. 107

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XVI] Trivandrum, Saturday, 27th February 1971 / 8th Phalguna 1892 [No. 124

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 868/LA4/71.

Dated, Trivandrum, 27th February 1971.

The following Bill together with the Statement of Objects and Reasons, and the Financial Memorandum is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. PRASANNAN,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1971.

Fourth Kerala Legislative Assembly

Bill No. 28.

THE TRAVANCORE-COCHIN ELECTRICITY SUPPLY SURCHARGE (REPEAL) BILL, 1971

A

BILL

to repeal the Travancore-Cochin Electricity Supply Surcharge Act, 1955.

Preamble.—WHEREAS it is necessary to repeal the Travancore-Cochin Electricity Supply Surcharge Act, 1955;

BE it enacted in the Twenty-second Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Travancore-Cochin Electricity Supply Surcharge (Repeal) Act, 1971.

(2) It shall be deemed to have come into force on the 1st day of April, 1968.

2. *Repeal.*—The Travancore-Cochin Electricity Supply Surcharge Act, 1955 (14 of 1955), is hereby repealed.

3. *Assignment of arrears to the Board.*—Any amount of surcharge collected by the Kerala State Electricity Board and payable to the Government and any arrears of surcharge recoverable under or by virtue of the provisions of the Act repealed by section 2 shall be credited, or shall be recovered and credited, as the case may be, in the revenue accounts of the said Board as if it were the revenue accruing to that Board, notwithstanding anything contained in the Act so repealed.

STATEMENT OF OBJECTS AND REASONS

The Travancore-Cochin Electricity Supply Surcharge Act, 1955, provides for the levy of a surcharge on the price of all supplies of energy made by the Government (now the Kerala State Electricity Board) and the licensees. This Act is applicable to the Travancore-Cochin area of the State. When the Kerala State Electricity Board revised the tariff structure in 1958 for the supply of power to consumers directly supplied by it, it merged the surcharge also in the tariff and the practice of levying a separate surcharge from consumers was discontinued. But the tariff rates for supply of

power to licensees was not revised in a like manner and therefore, surcharge under the said Act continued to be levied in areas served by licensees.

2. The Kerala State Electricity Board has revised the tariff structure applicable to licensees on the basis of grid tariff regulations with effect from the 1st April, 1968. The licensees in their turn have revised their tariff rates for supply of power to their consumers with effect from that date on a par with the rates levied by the Kerala State Electricity Board. Hence it is considered unnecessary to keep the Act alive from the 1st April 1968.

3. Since the surcharge is in the nature of a tax, the collections should go to the general revenues of the State. But these amounts were taken into credit for by the Board. In view of the fact that the Travancore-Cochin Act of 1955 was enacted to plug a possible lacuna in the earlier notification and also in view of the fact that the surcharge as such was not collected by the Board separately from 1-12-1958 and the element of surcharge was merged with the tariff in 1958, it is not reasonable to insist that the Board should pay the amount to Government and then remit it to the Board as subvention. It is therefore proposed to make a specific provision to allow the Board to retain the amount of surcharge so far collected and the arrears recoverable as its revenues.

4. The Bill is intended to achieve these objectives.

FINANCIAL MEMORANDUM

The Kerala State Electricity Board has been collecting the surcharge under the Travancore-Cochin Electricity (Supply) Surcharge Act, 1955 (14 of 1955) and retaining the same as revenues of the Board. Since the surcharge is in the nature of a tax, it cannot automatically form part of the revenues of the Board. It is part of the Consolidated Fund of the State. In view of the fact that the said Act was enacted to plug a possible lacuna in the earlier notifications and also in view of the fact that the surcharge as such was not collected by the Board separately from 1-12-1958 and the element of the surcharge was merged with the tariff in 1958 it is not reasonable to insist that the amount so collected should be paid to Government and thereafter Government remit it to the Board as subvention. The effect of the provision in clause 3 of the Bill will thus be that the State Government will have to forgo in favour of the Board, an amount of Rs. 122.66 lakhs which accrued due, to be considered fund of the State.

P. S. SRINIVASAN.